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3 **BEFORE THE**
4 **BOARD OF REGISTERED NURSING**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 2013-71

8
9 **GLORIA MCKENZIE, AKA GLORIA**
10 **FAY BRESSON, AKA GLORIA FRIESON,**
11 **AKA GLORIA F. BRESSON**
12 **1030 E. Green Street, #23**
13 **Pasadena, CA 91106**
14 **Registered Nurse License No. RN 428627**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

15 **FINDINGS OF FACT**

16 1. On or about July 25, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
17 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
18 Consumer Affairs, filed Accusation No. 2013-71 against Gloria McKenzie, aka Gloria Fay
19 Bresson, aka Gloria Frieson, aka Gloria F. Bresson (Respondent) before the Board of Registered
20 Nursing. (Accusation attached as Exhibit A.)

21 2. On or about August 31, 1988, the Board of Registered Nursing (Board) issued
22 Registered Nurse License No. RN 428627 to Respondent. The Registered Nurse License was in
23 full force and effect at all times relevant to the charges brought in Accusation No. 2013-71 and
24 has expired as of September 30, 2012.

25 3. On or about July 27, 2012, Respondent was served by Certified Mail copies of the
26 Accusation No. 2013-71, Statement to Respondent, Notice of Defense, Request for Discovery,
27 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
28 Respondent's address of record which, pursuant to California Code of Regulations, title 16,

1 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
2 of record was, and is, 1030 E. Green Street, #23, Pasadena, CA 91106.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124. None of the aforementioned documents were returned by the U.S. Postal Service.

6 5. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2013-
12 71.

13 7. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

17 8. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation No. 2013-71, finds
22 that the charges and allegations in Accusation No. 2013-71, are separately and severally, found to
23 be true and correct by clear and convincing evidence.

24 9. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
26 and Enforcement is \$ \$2,847.50.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Gloria McKenzie, aka Gloria Fay Bresson, aka Gloria Frieson, aka Gloria F. Bresson has subjected her Registered Nurse License No. RN 428627 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensed registered nurse.

b. Respondent is subject to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (b), in that on or about September 17, 2009, January 21, 2008 and July 22, 2007, Respondent used alcohol beverages to an extent or in a manner dangerous or injurious to herself, and the public.

c. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (c), in that on or about September 16, 2008 and December 18, 2007, Respondent was convicted of crimes involving the consumption of alcohol.

d. Respondent is subject to disciplinary action under section 2761, subdivision (e), in that on or about July 29, 2010, she procured her license by fraud, misrepresentation, or mistake, by failing to disclose a criminal conviction when she renewed her license.

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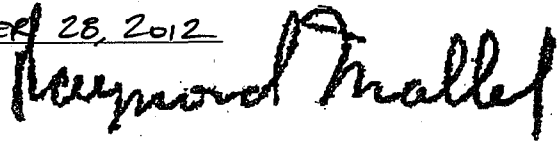
ORDER

IT IS SO ORDERED that Registered Nurse License No. RN 428627, heretofore issued to Respondent Gloria McKenzie, aka Gloria Fay Bresson, aka Gloria Frieson, aka Gloria F. Bresson is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on JANUARY 25, 2013.

It is so ORDERED DECEMBER 28, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51160608.DOC
DOJ Matter ID:LA2011601063

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation Case No. 2013-71

1 KAMALA D. HARRIS
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2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 GLORIA A. BARRIOS
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Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-71**

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13 **FAY BRESSON, AKA GLORIA FRIESEN,**
AKA GLORIA F. BRESSON
14 **1030 E. Green Street, #23**
Pasadena, CA 91106
15 **Registered Nurse License No. RN 428627**

A C C U S A T I O N

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 31, 1988, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 428627 to Gloria McKenzie, aka Gloria Fay Bresson, aka Gloria
25 Friesen, aka Gloria F. Bresson (Respondent). On or about August 8, 2008, the Board received
26 an application for renewal of licensure from Respondent which renewed her registered nurse
27 license for the period of September 30, 2010 through September 30, 2012 to the Board. The
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1 Registered Nurse License was in full force and effect at all times relevant to the charges brought
2 herein and will expire on September 30, 2012, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board, under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 STATUTORY PROVISIONS

7 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

11 5. Section 490 states:

12 “(a”) In addition to any other action that a board is permitted to take against a licensee, a
13 board may suspend or revoke a license on the ground that the licensee has been convicted of a
14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
15 or profession for which the license was issued.

16 “(b) Notwithstanding any other provisions of law, a board may exercise any authority to
17 discipline a licensee for conviction of a crime that is independent of the authority granted under
18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the licensee’s license was issued.

20 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code.”

26 6. Section 2761 states:

27 “The board may take disciplinary action against a certified or licensed nurse or deny an
28 application for a certificate or license for any of the following:

1 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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3 (e) Making or giving any false statement or information in connection with the application
4 for issuance of a certificate or license.

5 (f) Conviction of a felony or of any offense substantially related to the qualifications,
6 functions, and duties of a registered nurse, in which event the record of the conviction shall be
7 conclusive evidence thereof."

8 7. Section 2762 states:

9 "In addition to other acts constituting unprofessional conduct within the meaning of this
10 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
11 chapter to do any of the following:

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13 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
14 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
15 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
16 himself or herself, any other person, or the public or to the extent that such use impairs his or her
17 ability to conduct with safety to the public the practice authorized by his or her license.

18 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
19 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
20 or the possession of, or falsification of a record pertaining to, the substances described in
21 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
22 thereof."

23 **REGULATORY PROVISIONS**

24 8. California Code of Regulations, title 16, section 1444, states:

25 AA conviction or act shall be considered to be substantially related to the qualifications,
26 functions or duties of a registered nurse if to a substantial degree it evidences the present or
27 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
28 safety, or welfare. . "

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b. On or about December 18, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having blood alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of the State of California v. Gloria Fay Bresson* (Super. Ct. Los Angeles County, 2007, No. 7PS04234). The Court ordered Respondent to complete an AB0541 Alcohol Program, and pay fines totaling \$1,486.00. She was also placed on summary probation for a period of three years with certain terms and conditions.

The circumstances surrounding the conviction are that on or about July 22, 2007, officers of the Pasadena Police Department responded to a possible DUI driver. Upon arrival, officers observed that Respondent was driving in the wrong direction, halfway in a driveway and halfway on the street. After the officer initialed a traffic stop, Respondent's thirteen year old daughter was sitting in the passenger side of the vehicle. Officers opened the driver's door and immediately smelled an odor of alcohol emitting from Respondent's breath and person. In response to the officer's inquiry regarding alcohol consumption, Respondent stated that she drank "a lot". She was not sure what day it was or how long she had been drinking. Officers determined that Respondent was unable to perform the field sobriety testing successfully. Accordingly, Respondent was arrested for driving while under the influence of alcohol or drugs. Respondent completed the breath test with results of 0.26%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (b), in that on or about September 17, 2009, January 21, 2008 and July 22, 2007, Respondent used alcohol beverages to an extent or in a manner dangerous or injurious to herself, and the public as follows:

a. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, subparagraph (a) and (b), as though set forth fully herein.

b. The circumstances surrounding Respondent's dangerous use of alcohol beverages on September 17, 2009 are that officers of the Pasadena Police Department responded to a possible

1 DUI driver at 1620 hours that day. Upon arrival, Respondent was waiting with the reporting
2 witness who stated that he first saw Respondent driving erratically eastbound on Colorado
3 Boulevard. He observed that Respondent was driving with a blown out front right tire. He drove
4 parallel to Respondent and told her to pull over before she got into an accident. After she pulled
5 over and exited the car, the witness immediately detected the odor of alcohol from her breath.
6 While waiting for the police to arrive, the witness observed the Respondent using mouthwash and
7 putting some in her mouth. The officer that Respondent's right tire was completely gone with
8 only the rim remaining and that there was body damage to the front right fender. The officer also
9 observed a strong odor of alcohol emitting from Respondent's breath and person and that her eyes
10 were watery and bloodshot. The officer asked Respondent if she had been drinking that day.
11 Respondent first stated that she drank "last night", but upon further inquiry by the officer
12 admitted that she consumed a bottle of wine that morning. Thereafter she became upset and said
13 that she was not drunk and did not want to get another DUI.

14 The officer determined that Respondent was unable to perform the field sobriety testing
15 successfully. Respondent consented to a preliminary alcohol screening test (PAS) with a result of
16 .128%. Accordingly, the Officer determined that Respondent was under the influence of an
17 alcoholic beverage to the extent that she could not safely operate a motor vehicle. Respondent
18 was arrested for driving while under the influence of alcohol. Respondent completed the breath
19 tests with results of 0.13% and .12%.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Convictions Involving the Consumption of Alcohol)**

22 12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
23 defined in section 2762, subdivision (c), in that on or about September 16, 2008 and December
24 18, 2007, Respondent was convicted of crimes involving the consumption of alcohol.
25 Complainant refers to, and by this reference incorporates, the allegations set forth above in
26 paragraphs 10 and 11, as though set forth fully herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Disclose Conviction)**

3 13. Respondent is subject to disciplinary action under section 2761, subdivision (e), in
4 that on or about July 29, 2010, she procured her license by fraud, misrepresentation, or mistake,
5 by failing to disclose a criminal conviction when she renewed her license. The circumstances are
6 as follows:

7 a. On or about July 29, 2010, the Board received Respondent's undated registered nurse
8 license renewal application for the renewal period of September 30, 2010 through September 30,
9 2012 to the Board. Respondent certified under penalty of perjury that she had not been convicted
10 or pled nolo contendere to any violation of any law of any state since she last renewed her license
11 [August 8, 2008], when in fact, on September 16, 2008, Respondent was convicted by a plea of
12 no contest for violating Vehicle Code section 23152(b). Complainant refers to, and by this
13 reference incorporates, the allegations set forth above in paragraphs 10 and 11 as though set forth
14 fully herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 1. Respondent is subject to disciplinary action under section 2761, subdivision (a), for
18 unprofessional conduct in connection with alcohol use and criminal convictions. Complainant
19 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 10 and
20 11 as though set forth fully herein.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number RN 428627, issued to
25 Gloria McKenzie aka Gloria Fay Bresson;

26 2. Ordering Gloria McKenzie to pay the Board of Registered Nursing the reasonable
27 costs of the investigation and enforcement of this case, pursuant to Business and Professions
28 Code section 125.3;

1 3. Taking such other and further action as deemed necessary and proper.

2 DATED:

July 25, 2012

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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